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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,738	02/04/2004	Kevin Tucek	206-032	5639
33354	7590	07/18/2005	EXAMINER	
ETHERTON LAW GROUP, LLC 5555 E. VAN BUREN STREET, SUITE 100 PHOENIX, AZ 85008			JOHNSON III, HENRY M	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,738	TUCEK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Henry M. Johnson, III	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 20 June 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 18 is/are allowed.  
 6) Claim(s) 1,3-5 and 7-17 is/are rejected.  
 7) Claim(s) 2 and 6 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 June 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-5, 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US 2002/0138119 to Angeley et al. in view of U.S. Patent 4,176,925 to Kocher et al. Angeley et al. teach a laser scanning handpiece for delivering treatment to tissue (abstract) using galvanometer mirrors driven by electronic scanning instructions (controller) for scanning the output beam (paragraph 0051). It is inherent that electronic control provides the capability to produce intricate patterns (shape of treatment zone) and variable energy distributions (based on scan rate). Angeley et al. disclose two beams (implying two sources), one a visible beam for aiming and the other for treatment (paragraph

0036). A square waveguide provides a square beam shape (Fig. 4). Wand and handpiece are considered equivalents. Angeley et al. does not disclose the use of a single optical element for scanning the output beam. Kocher et al. teach scanners for laser beams with an embodiment in which the optical scanning element may be either a movable mirror or a movable prism (abstract). Beam scanners using a single optical element are common in the art (U.S. Patent 6,900,916; U.S. Patent 5,252,816; U.S. Patent Application Publication US 2004/0212863) and therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the single optical element of Kocher et al. in the invention of Angeley et al. as an alternative equivalent scanning means.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US 2002/0138119 to Angeley et al. in view of U.S. Patent 6,900,916 to Okazaki et al. Angeley et al. is discussed above, but does not disclose the use of a single optical element for scanning the output beam or a semiconductor laser. Okazaki et al. teach a scanning means for a laser comprising a single mirror movable two dimensionally (Col. 9, lines 9-11) and a semiconductor laser as the light source. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the single mirror scanner and semiconductor laser as taught by Okazaki et al. in the invention of Angeley et al. as both are well known and pervasive in the art for scanning a beam and producing a beam.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,879,376 to Miller in view of U.S. Patent 6,900,916 to Okazaki et al. Miller teaches a surgical laser system for tissue treatment with a handpiece. A commercial scanner may replace the standard handpiece and serve to contiguously place treatment spots on the skin. This would allow for the rapid uniform coverage of large treatment areas with any particular spot size (Col. 9, lines 48-55). The laser may be provided by a semiconductor diode (Col. 5, line 10).

Art Unit: 3739

Two lasers may be provided, a treatment beam and a red, visible, aiming beam (Col. 9, Lines 30-42). Laser control is implicit in that pulse repetition rates of from 1-20 Hz are disclosed.

Miller does not disclose the use of a single optical element for scanning the output beam.

Okazaki et al. teach a scanning means for a laser comprising a single mirror movable two dimensionally (Col. 9, lines 9-11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the single mirror scanner as taught by Miller in the invention of Angeley et al. as the commercial scanning device suggested by Miller.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US

2002/0138119 to Angeley et

al. in view of U.S. Patent

3,966,319 to Lang. Angeley

et al. is discussed above, but

does not disclose the use of a

single optical element for

scanning the output beam

that is controlled using a cam

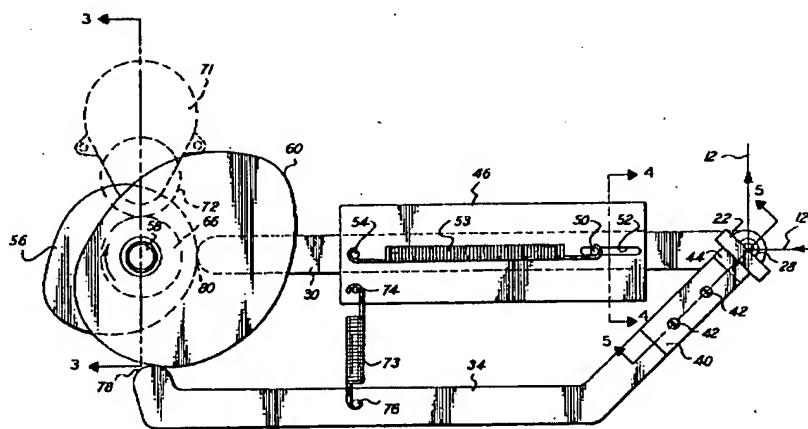


FIG. 2

and a hinged arm. Lang discloses a scanning mirror (Fig. 2, # 22), movable in two dimensions using cams (Fig. 2, # 60) with arms to control the mirror movement. The pivot point (Fig. 2, # 28) is interpreted as a hinge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the mechanical scanning mechanism as taught by Lang in the device of Angeley et al. as an alternative scanning means for moving the mirror.

***Allowable Subject Matter***

Claim 18 is allowed.

Claims 2 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

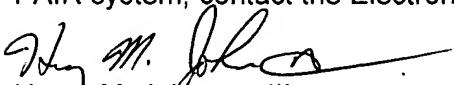
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Henry M. Johnson, III  
Primary Examiner  
Art Unit 3739